

LAND USE COMMITTEE
Council of the County of Maui

M I N U T E S

Council Chamber

September 5, 2012

CONVENE: 1:31 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Mike White, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Elle Cochran, Member
Councilmember Donald G. Couch, Jr., Member
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember G. Riki Hokama, Member
Councilmember Danny A. Mateo, Member

STAFF: Carla Nakata, Legislative Attorney
Pauline Martins, Committee Secretary
Gina Gormley, Legislative Attorney

ADMIN.: James Giroux, Deputy Corporation Counsel, Department of the Corporation
Counsel
Michele McLean, Deputy Director, Department of Planning
Danny Dias, Planner, Department of Planning
Pam Pogue, Water Resources and Planning Division Chief, Department of
Water Supply

OTHERS: Leilani Pulmano, Program Manager, Munekiyo & Hiraga, Inc.
Joseph Blackburn, Managing Agent, Kulamalu Homeowners Association
Amy Hanlon
Colleen Suyama, Senior Associate, Munekiyo & Hiraga, Inc.
Janet Shimada, Board President, Kahului Hongwanji Mission
Carl Van Zweden
Regina Duncan
Robert Glass, Kahului Baptist Church
Henry Lindsey, Kahului Seventh-Day Adventist Church
Arlene Lindsey, Kahului Seventh-Day Adventist Church
Elton Wong, KG Maui Development, LLC
Ronald Fukumoto, Ronald M. Fukumoto Engineering Company
Plus (2) other people

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PRESS: *Akaku Maui Community Television, Inc.*

CHAIR CARROLL: ...*(gavel)*... The Land Use Committee meeting of September 5, 2012 is now in session. Good afternoon.

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

COUNCILMEMBER BAISA: Good afternoon.

CHAIR CARROLL: May I please request first of all that anybody disable their cell phones or anything else that can possibly make noise during the meeting. We have with us...including our mouth. We have with us this morning our Vice-Chair of the Committee, Mr. White.

VICE-CHAIR WHITE: Aloha, Chair.

CHAIR CARROLL: And we have with us Joe, Mr. Pontanilla, Mr. Victorino --

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR CARROLL: --Mr. Couch --

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR CARROLL: --and Ms. Baisa. And excused are Mr. Mateo, Chair, and Elle Cochran for now, and Riki Hokama. We have with us James Giroux, Deputy Corporation Counsel.

MR. GIROUX: Aloha, Chair.

CHAIR CARROLL: Michele McLean, Deputy Planning Director.

MS. McLEAN: Aloha, Chair.

CHAIR CARROLL: Danny Dias, Planner, Department of Planning for LU-33 and LU-31. Pam Pogue, Planning Program Manager, Department of Water Supply. And we will not have a representative from Housing available for LU-31. Circumstances, health and otherwise have not made this possible, so we're going to have to try to do with that and hopefully I can answer any questions that the members might have. LU-33, we have Janet Shimada, President of Board, Kahului Hongwanji Mission; Robert Glass, Kahului Baptist Church; Henry and Arlene Lindsey, Kahului Seventh-Day Adventist Church; and Colleen Suyama, Munekiyo and Hiraga, Inc. For LU-31, we have Elton Wong, KG Maui Development, LLC; Ronald Fukumoto, Ronald M. Fukumoto Engineering Company; Leilani Pulmano, Munekiyo and Hiraga, Inc.; and Pauline Martins, our Committee Secretary, and Carla Nakata, our Legislative Attorney. Members, we have two items

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on our agenda today, LU-33 Change in Zoning for Kahului Baptist Church, Kahului Hongwanji Mission, and Kahului Seventh-Day Adventist Church; and LU-31, Community Plan Amendment and Change in Zoning for Proposed Pulelehuakea, Residential Subdivision in Pukalani. Public testimony on both items will be accepted starting in a few minutes. Those wishing to testify should sign up at the table in the lobby. Testimony shall be limited to three minutes per item with one minute to conclude, if requested. Testifiers are requested to state their name for the record and indicate who they're representing, if appropriate. We'll now call the first testifier. Ms. Nakata.

MS. NAKATA: Mr. Chair, the first testifier is Joseph Blackburn. Mr. Blackburn will be followed by Amy Hanlon.

... BEGIN PUBLIC TESTIMONY ...

MR. BLACKBURN: My name is Joseph Blackburn. We are the managing agent for the Kulamalu Homeowners Association, and I just want to express the fact that the homeowners association and the developer of Pulelehuakea residential subdivision have worked together. And this is a good example of the developer reaching out to the homeowners. The homeowners actually formed a subdivision committee which met with the developers, and an agreement was reached as to what benefitted both parties. One of the subdivision committee members was Boyd Mossman. So in the end, I think both parties benefit from this situation, and I think Carl Van Zweden, our homeowners association president will testify about the fact of how the homeowners and the board worked with the developer.

CHAIR CARROLL: Thank you. Any questions for the testifier? Seeing none, thank you.

MR. BLACKBURN: Thank you.

MS. NAKATA: The next testifier is Amy Hanlon, she'll be testifying on LU-33.

MS. HANLON: Good morning, Chair Carroll and Council members. Good to see you. My name is Amy Hanlon and I'm speaking on behalf of Pastor Mike Komatsu. He's our pastor, he could not be here. And I've been a member of Kahului Baptist for 26 years, I'm a trustee and officer of the corporation and on many committees, and Pastor Mike asked that I read his letter of testimony. And since my sentiments are the same, I'll just read the letter, okay. My name is Mike Komatsu and I'm Pastor, Kahului Baptist Church, and I am in favor of the passage of LU-33. Under the present zoning, if our church and preschool were destroyed by some unforeseen disaster, we would have a year in which to rebuild and occupy. This is a time constraint that would be impossible for us to fulfill. In addition to any new construction to our present building is limited to existing footprints of the facility and the passage of LU...LU-33, excuse me, would free us from such limitations. Therefore, I request you pass LU-33. Thank you.

CHAIR CARROLL: Thank you. Any questions for the testifier? Seeing none, thank you.

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MS. NAKATA: Mr. Chair, the next testifier is Colleen Suyama, she'll be testifying on LU-33.

MS. SUYAMA: Good afternoon. My name is Colleen Suyama. I'm a board member at the Kahului Hongwanji Mission, and we would like to thank Joe Pontanilla for being the proponent for the resolution that transmitted the request for zoning change to the Maui Planning Commission and Planning Department, as well as thanking both the Planning Department and the Commission for their positive recommendation, their support of the zoning change. One of the reasons why when I became a board member, it was discovered that--sitting on the board--that our zoning was R-3 Residential, and that our church, the main church facility which is the church, our columbarium, the kitchen facility, social hall, the preschool office, and our meeting rooms were all within the Residential District. And because of that, they were existing non-conforming uses, and one of the things that really concerned the church and the board members was that, you know, similar to Kahului Baptist Church, if something unfortunate should have happened to the church, as a non-conforming use we are obligated to reestablish that use within one year. And for churches...with financial situations within churches, it would be almost impossible for us to get the financing, getting an architect together, getting the necessary studies and permits together within that one year time and reestablish the use. And because of this, you know, we had approached Councilmember Pontanilla if he could help the churches, and besides just the Kahului Hongwanji Mission, we discovered that the other two churches, both the Seventh-Day Adventist Church as well as the Kahului Baptist Church was in a similar situation. And because of that, he had agreed that he would do the, you know, request the zoning change for all three churches. And I think what's important is that these churches have been in existence from the early 1950s. They've been on these properties. It's not like this is a totally new use. For us, the Kahului Hongwanji, just last year we celebrated our 100th year anniversary, that we have been in existence for 100 years, and hopefully we'll be in existence for another 100 years. And for that reason, you know, we request that the Council approve the Change in Zoning for all three churches. Thank you.

CHAIR CARROLL: Any questions for the testifier? Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. And thank you, Ms. Suyama, for being here. Being that you've been and you were a part of the Planning Department for many years, is this not a common...you find this coming up all the time with different properties that were for years assumed as one zoning and really was in another zoning aspect?

MS. SUYAMA: This is not uncommon. You have to realize that the zoning maps were done in the 1960s.

COUNCILMEMBER VICTORINO: Right.

MS. SUYAMA: Especially the Wailuku-Kahului area, and they have never been updated since their first inception. And during that time there have been a lot of General Plan or community plan amendments in which properties have changed, and unfortunately, the properties have not been

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rezoned to be in conformance to a lot of the land use designations that's in our community plans presently.

COUNCILMEMBER VICTORINO: Yeah. So in other words, it is common because of the lack of change that has occurred through the years, and so now many of these properties, you're finding this if something was to happen, if it was to be destroyed by storm, fire, whatever, to rebuild would be virtually impossible with the short span of time?

MS. SUYAMA: Right. Most places like churches would have an almost impossible ability to, you know, rebuild and occupy within a one-year time limit, and I'm pretty sure that there's other people like businesses, maybe single-family residences that may not be in conformist that may have the same problem.

COUNCILMEMBER VICTORINO: Yeah. Well thank you, and that's one of the things I think we need to continue to research and try to get corrected. 'Cause it is too late when the disaster happens or an emergency occurs and then you try to make the change at that point. So thank you for bringing this forward, I appreciate it. And I thank Mr. Pontanilla for his efforts too. Thank you, Colleen.

MS. SUYAMA: Thank you.

CHAIR CARROLL: Any further questions for the testifier? Hearing none, thank you. And let the record show Ms. Cochran has joined us.

COUNCILMEMBER COCHRAN: Thank you, Chair.

MS. NAKATA: Mr. Chair, the next testifier is Janet Shimada, she'll be testifying on LU-33, and she'll be followed by Carl Van Zweden.

MS. SHIMADA: Good afternoon. Being here, I think this is for the second or the third time, it's beginning to feel like we're all old friends, and I thank you very, very much. Chairman Carroll, Committee members, my name is Janet Shimada, and as president, I represent Kahului Hongwanji in the matter of the request for a zoning change. The testimony has been offered in previous sessions, and the petitions you have before you indicate the broad support from all of our organizations. It is so important for our three churches to have this rezoning done, and we thank you very much for addressing our joint request. And I thank Joe very much, I thank all of the Council members for your attention and consideration. Thank you.

CHAIR CARROLL: Thank you. Any questions for the testifier? Seeing none, thank you.

MS. NAKATA: The last testifier who has signed up is Carl Van Zweden, he'll be testifying on LU-31. Excuse me, he'll be followed by Regina Duncan.

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MR. VAN ZWEDEN: Good afternoon, Mr. Chair and members of the County Council. My name is Carl Van Zweden, I'm here to testify on behalf of the Homeowners Association known as Kulamalu. I'm presently the president of our board of directors for our homeowners. We have 57 homes in the area that's adjacent to and would certainly be affected by the proposed development on the golf course. We've worked closely with the developers to address our concerns that we've had initially, and we're grateful that the developers have been considerate of our concerns. And we've worked out an agreement with them with regard to our concerns, and we're quite pleased with the intended use of the property and the understanding we have with the proposed developers.

CHAIR CARROLL: Thank you. Any questions for the testifier? Hearing none, thank you.

MS. NAKATA: The next testifier is Regina Duncan, she'll be testifying on LU-31.

MS. DUNCAN: Aloha, mahalo. Aloha, mahalo, County Council members and Chair. I'm here to testify on LU-31. I am a resident of the Kulamalu in Pukalani. To just reiterate what Mr. Van Zweden said, I'm also a board of director for the Kulamalu HOA, and we've worked very closely with the developer. They've been very aware and addressed our concerns as a community, and we're in support of the development, especially if the rezoning for the golf course would go to the Park rezoning. Thank you.

CHAIR CARROLL: Any questions for the testifier? Hearing none, thank you.

MS. NAKATA: Mr. Chair, no further testifiers have signed up.

CHAIR CARROLL: Is there anyone else in the gallery that wishes to give public testimony? Please come forward. Seeing none, if there's no objection, we will close public testimony for today.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR CARROLL: Public testimony is now closed.

... END OF PUBLIC TESTIMONY ...

**LU-33 DISTRICT CHANGE IN ZONING FOR KAHULUI BAPTIST CHURCH,
KAHULUI HONGWANJI MISSION, AND KAHULUI SEVENTH-DAY
ADVENTIST CHURCH (C.C. No. 12-178)**

CHAIR CARROLL: The Committee is in receipt of a revised proposed bill, A Bill for an Ordinance to Change Zoning from R-3 Residential District to P-1 Public/Quasi-Public District for Property Situated at Kahului, Maui, Hawaii, for Kahului Baptist Church, Kahului Hongwanji Mission, and Kahului Seventh-Day Adventist Church. The purpose of the revised proposed

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bill is to grant a Council-initiated request for a Change in Zoning from R-3 Residential District to P-1 Public/Quasi-Public District for the following three properties in Kahului, Maui, Hawaii: approximately 132,080 square feet of land located at 309 South Puunene Avenue, which is the site of Kahului Baptist Church; approximately 57,000 square feet of land located at 291 South Puunene Avenue, which is the site of the Kahului Hongwanji Mission; and approximately 75,512 square feet of land located at 261 South Puunene Avenue, which is the site of the Kahului Seventh-Day Adventist Church. We are now going to hear a PowerPoint presentation by Planner Danny Dias, and I will call a two-minute recess while we lower the screen. We stand in recess. . . .(gavel). . .

RECESS: 1:48 p.m.

RECONVENE: 1:49 p.m.

CHAIR CARROLL: . . .(gavel). . . Land Use Committee meeting of September 5, 2012 is now back in session. And I'll turn the time over to Mr. Dias.

. . . BEGIN PRESENTATION . . .

MR. DIAS: Thank you, Mr. Chair. And good afternoon, members of the Council Land Use Committee. I have a very brief PowerPoint presentation, about five minutes or so. You folks are all familiar with this project, so I won't get in too much detail. But ultimately it's LU-33, it started off as Council Resolution 12-29. The permit number for it is CIZ 2012/0002. Of course, the purpose of the application is to obtain a Change in Zoning from R-3 Residential to P-1 Public/Quasi-Public for three existing properties located along Puunene Avenue in Kahului. And these properties have been used for church operations for numerous years, as Colleen stated earlier, at least 50 years or so. The TMKs included with this Change in Zoning are 2-3-008:066 Parcel 78, that's owned by the Hawaii Baptist Convention. Size of the property is a little over 132,000 square feet, and the current uses on the property are the Kahului Baptist Church and Preschool. Parcel 79 is owned by the Honpa Hongwanji Mission of Hawaii. It's about 57,000 square feet, and currently there is the mission temple, columbarium, preschool, and minister's residence on the property. Parcel 80 is owned by the Hawaiian Association of Seventh Day Adventist. The property size is about 75,500 square feet, and currently there is a church, kindergarten through eighth grade school, and a playground on the property. This is the project location. Let me pull up the cursor here. As you can see, this is Puunene Avenue, it runs north to south. Over here you have Wakea Avenue running east to west. This is the Seventh-Day Adventist Church property here. This L-shaped property is the Kahului Hongwanji Mission, and...sorry about that, and over here is the Kahului Baptist Church property. Here it is again. As you notice, when we refer to the Kahului Hongwanji Mission property, it's a portion of Parcel 79. As I mentioned earlier, this is the entire Parcel 79 here. It's important to note that this area here to the rear of the property is actually community planned for Light Industrial, so this area here is not a part of this Change in Zoning. Right now it's community planned Light Industrial, and I believe what the church is planning on doing is during the Kahului-Wailuku Community Plan update they're

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going to request that that portion be revised to Public/Quasi-Public and then at that point they're planning on coming in and requesting a Change in Zoning for the rear portion of the property. Existing zoning designations, the majority of it is R-3 Residential. If you look at Parcel 79 in the rear, there's that shaded area, that portion is zoned M-1 Light Industrial. Here's an aerial image, sort of a different view of it, but here's Wakea Avenue that's running east to west, here is Puunene Avenue running north to south. Here you have the Seventh-Day Adventist Church property. This is the Kahului Hongwanji Mission property. And...oh, sorry. And this is the Kahului Baptist Church property. Having trouble with the cursor here, sorry about that. Okay. Here's some project area photographs. This is standing along Puunene Avenue looking north. I'm in the corner of the Kahului Baptist Church property, and of course behind that is the Kahului Hongwanji Mission, and further behind that is the Seventh-Day Adventist Church. This is standing in the driveway of the Kahului Seventh-Day Adventist Church looking west along Wakea Avenue. Let me see if I can...hold on, I'm trying to...okay. Thanks. Okay, here we go. Thanks. Here's the site plan for the Kahului Baptist Church. Here you have the sanctuary area, and here's a classroom area. Over here you have basically a playground area and a basketball court here, and then here you have some parking. And of course this here is Puunene Avenue. Just sort of a panoramic of the church. Here's the church area, here's the preschool, and towards the rear of the property, basketball court, playing field. And this is their parking lot looking north. This is the Kahului Hongwanji Mission site plan. It's pretty hard to see, but essentially here is the temple. Here's the columbarium, and this area here is the social hall. I believe this is an office here, and here you have the classroom area. And then parking is around here. And here's a view of that church area, classroom back here, parking in the front. Lastly, we have the site plan for the Kahului Seventh-Day Adventist Church. Here's the existing church, existing classrooms, and an existing school building here. Lots of parking in the front, there's also some overflow parking, and then a playground area here which also serves as overflow parking if necessary. And of course, this is Wakea Avenue here. And this is just a shot of it from the parking lot. As you can see, a classroom building here, overflow parking and playground area, church itself. Just briefly go over the timeline. On March 16 of this year, Resolution 12-29 was adopted by this Council. About a week later it was transmitted to the Planning Department. On April 11th we transmitted it out for agency review. On May 19th we received the last agency comments. We scheduled the public hearing before the Planning Commission on June 26. At that meeting, five members of the public provided testimony in support of the resolution, and in addition, we also received the petition with a little over 250 signatures showing support for the resolution. At the next available Planning Commission meeting, we brought the action minutes before them, and those minutes for the June 26th meeting were accepted by the Commission. On July 25th we received the draft bills provided by Corporation Counsel, and finally on August 2nd we sent the project up to this Council for review. Very briefly, in summary, this is a Change in Zoning initiated by, via Council resolution by Councilmember Joe Pontanilla. It involves three separate parcels, but as I mentioned previously, a portion of Parcel 79 won't be rezoned until a later date. It's important to note that no construction work or substantial alterations to the parcels are proposed at this time. Essentially, what's there now is going to stay there at least for the foreseeable future. And the proposed Change in Zoning meets the criteria listed in Chapter 19.510.040 of the Maui County Code. It's consistent with the General Plan, community plan, will not affect existing infrastructure, be detrimental to the environment, or adversely impact the

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character or quality of the surrounding area. And that concludes our presentation, Mr. Chair. Thank you.

... **END OF PRESENTATION** ...

CHAIR CARROLL: Thank you. We'll now stand in recess for two minutes. We stand in recess. ...*(gavel)*...

RECESS: 1:58 p.m.

RECONVENE: 2:00 p.m.

CHAIR CARROLL: ...*(gavel)*... Land Use Committee meeting of September 5, 2012 is now back in session. I'd now like to turn the time over to Councilmember Pontanilla that initiated this action. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chairman Carroll. You've heard the public testimony by individuals of the church in regards to the request for the Change in Zoning, and the purpose actually is...of the bill, is to again Change in Zoning from R-3 Residential District to P-1 Public/Quasi-Public District for the property. There are three churches that is adjacent to each other, and, you know, and that's the reason why, you know, they brought it forward to me to have the zoning change to properly zone those three parcels.

CHAIR CARROLL: Thank you, Mr. Pontanilla. I'd now like to open the floor for discussion. Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I guess this is to the Department or Mr. Dias. You had that portion of 70 that is Light Industrial and you're going to do it all later, how come we're not just doing it now? Might as well not put those guys through the same thing over and over again.

MR. DIAS: Well, first of all, it's not part of the resolution, but I think the main reason why is it's community planned Light Industrial. You would need a Community Plan Amendment. When you do a Community Plan Amendment you need an Environmental Assessment, so once you have that, you know, you're adding a lot of time, a lot of expense to the project. And I believe that's why the church is planning on just waiting.

COUNCILMEMBER COUCH: And there's no...we can't just change the zoning to make it out of...I mean we've done it before in the County to go against the community plan.

MS. McLEAN: That's correct, you can establish zoning that's inconsistent with the community plan.

COUNCILMEMBER COUCH: All right. That's all.

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CHAIR CARROLL: Further discussion?

COUNCILMEMBER VICTORINO: Chair?

CHAIR CARROLL: Mr. Victorino.

COUNCILMEMBER VICTORINO: And thank you. And, you know, my colleague going south and I don't want to go south. I want to go north and be positive and stay there. You know these people have waited for many years to get this change, Mr. Chair, and thank you for bringing it forward and thank Mr. Pontanilla. I think it's only using common sense to get this done so that their churches will not have any challenges in the future should a disaster occur, and that's the biggest thing. You know right now they sit on pins and needles, anything goes wrong, they're up a creek with no paddle, and that's not fair. So I'm all for whenever you make your recommendation in supporting of this resolution. Thank you, Mr. Chair.

CHAIR CARROLL: Thank you. Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. Chair, I agree with Mr. Victorino, I think this is kind of a no-brainer. You know these institutions have been with us for a very long time, especially the Kahului Hongwanji that celebrated 100 years, my goodness. They're a very integral part of our community, and I think it's very important for us to take care of this so that in the unlikely event something happens that life goes on and they won't have to go through a fire drill. So I am very supportive. Thank you.

CHAIR CARROLL: Thank you. Any further discussion before I give my recommendation? Mr. White.

VICE-CHAIR WHITE: Thank you, Mr. Chair. And I agree with Ms. Baisa and Mr. Victorino and Mr. Pontanilla about how important it is to move ahead with this, and I am in full support. But I think Mr. Couch brings up an interesting point, because we sit here during the General Plan process and make sweeping changes in zoning and designations with no Environmental Assessment, and yet if somebody in the public wants to do something with their property, they've got to go through all the steps, they've got to do an EA and so on. But I don't see why it is that we need to do an EA or why somebody needs to do an EA when it's clear what the uses are, clear what their intentions are with the property. It would seem fairly simple to me, and I know simplicity is not a strong suit of the planning process. But it would seem it would make some sense that if we're going through a change for part of the property, we should be able to do like we do with the General Plan and make it a little more broad. So I wish we would could do the whole property at this point, but I'm happy and supportive of the measure that Mr. Pontanilla and yourself brought forward.

CHAIR CARROLL: Thank you for your thoughts, Mr. White. Any further discussion before I give my recommendation? Ms. Baisa.

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COUNCILMEMBER BAISA: Yes, just following up on the thoughts of Mr. Couch and Mr. White. What I heard was we couldn't do this because it's not part of the resolution that's before us. If we were to delay and revise the resolution, could we then do it just by waiting a little while?

CHAIR CARROLL: My feeling is it cannot, but I will defer to the Planning Department.

COUNCILMEMBER BAISA: I was told don't ask, don't get. Thank you.

MS. McLEAN: From the Planning Department side, on the last slide that Danny presented, it referenced Chapter 19.510 and listed the criteria that need to be satisfied in order to establish zoning, and one of those criteria is consistency with the community plan. So from the Planning Department side, that would be difficult for us to process that. In terms of the legal side, whether the Council could adopt zoning that wasn't reviewed by the Maui Planning Commission first, I'm not sure that the Council can do that, but I would defer to James on that question.

COUNCILMEMBER BAISA: Thank you. I didn't hear no, I heard difficult. Could we hear from Mr. Giroux?

CHAIR CARROLL: Mr. Giroux.

MR. GIROUX: Thank you, Chair. Gladys, you're going to make me the bad guy today.

COUNCILMEMBER BAISA: I'm determined to do that to you today.

MR. GIROUX: Yeah, I think procedurally it is a problem. It's just because the resolution didn't include it. And this whole issue of the community plan, amendments of community plans is also an emerging area of the law that as your Corporation Counsels, we are looking into that and we are trying to bring sanity to the process. We are advocating for sanity, but we are dealing with the State and we have to look at the law. They have their rules, and there's case law that we're looking into. And there's also our...you know, we're trying to bring consistency to the process so that, you know, everybody gets treated fairly as far as the environmental document process. So, and that's, I think, the biggest, I would say, hang-up, and that's why the way that this permit was processed was to avoid that because we kind of want to put it on the fast track. If the lawyers and the Legislature can get on track with the 343 process and really look at, you know, what are the benefits and what are the detriments in the process, then once that's cleared up I think everybody will benefit. So that's what we're working for.

COUNCILMEMBER BAISA: Thank you very much. Thank you, Chair.

CHAIR CARROLL: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I too want to see it get done as quickly as possible and also as painlessly as possible, especially for the applicants. Mr. Giroux or

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Ms. McLean, we have a couple of issues that are going through now because of a mapping error, that the Council initiated a change in community plan, it does not require an EA. Is that something that we could do? Not in this meeting, you know, if we pass this out in this meeting, another resolution to come through and just say hey look, we want to do a Change in Zoning and a change in community plan at the same time. That wouldn't require an EA anymore because I mean we've already two or one and one that's coming that we don't have to do a change in...an EA for a community plan amendment.

MS. McLEAN: There are exemptions in the 343 law and rules for County-initiated Community Plan Amendments. Generally that refers to the broader community plan updates. That's always been understood by the County. When these recent cases came to the Planning Department, we consulted with OEQC, the State Office of Environmental Quality Control that's responsible for administering the 343 law, and in that discussion the head of OEQC indicated that they felt a County-initiated Community Plan Amendment in that kind of case to correct a mapping error would not require an EA. And so the Planning Department processed that, took it to the Planning Commission, and sent that back to Council. My understanding is that Council is waiting for James' office, for Corporation Counsel to verify that, because as James indicated, there is case law, there is more to the question than just getting the guidance from OEQC which is what we did. So my understanding is that we've gone most of the way through the process that you're referring to, but it hasn't concluded because we're waiting for confirmation from Corporation Counsel.

COUNCILMEMBER COUCH: Okay. And, Mr. Chair, it's my intent to not put these folks through another expensive process and another long waiting process, so if it's something we can do, I would certainly like to see if the Council can get that other portion done. Because I mean this doesn't make sense to have them go through this whole thing again for that little piece that they're already using it for that purpose. So anyway...*(inaudible)*...

CHAIR CARROLL: I'm sure they would appreciate you pursuing that at a later time. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. I'd like to thank my fellow Council member, that was not his intent. Just a question and clarification to the Planning Department. So whenever they do the community plan update, I don't know when they going do it, but at that time, can they do the change at that time without, you know, going or having any hassles with the law?

MS. McLEAN: It's long been the Department's understanding that when changes are made as part of the broader community plan update process that an EA does not have to be prepared.

COUNCILMEMBER PONTANILLA: So that would be probably the most easiest process at that time?

MS. McLEAN: At that time, yeah. That's still quite a few years away.

COUNCILMEMBER PONTANILLA: Okay. Thank you. Thank you, Chairman.

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CHAIR CARROLL: Mr. White.

VICE-CHAIR WHITE: And this will be my last, thank you, Chair. But I'm...am I correct to infer that Mr. Couch is going to be working on a legislative package bill for us to present this year to the State?

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR CARROLL: Mr. Victorino.

COUNCILMEMBER VICTORINO: This is the problem with us, we get from one simple, simple, very simple process into a million and thousand other questions, and I mean I appreciate it, you know, and I think we need to work on that. But I think I'd like to see this pass because number one and first and foremost, if the place burns down next week or next month I don't want to be responsible by holding it up in any further delays. So my whole thing is, that's what they're asking for, let's do what they ask for first, and in the future let's make the process a little simpler. Let Mr. Couch go figure it out with the State Legislature. Thank you very much.

CHAIR CARROLL: All right. Thank you. Committee members, when I was first asked the question, I said I was quite certain it was no. I've allowed the discussion because we have some time today, and it seems like it might be useful to the applicant to be able to pursue this at a later time. Any further discussion --

COUNCILMEMBER PONTANILLA: Recommendation.

CHAIR CARROLL: --before I read my recommendation?

COUNCILMEMBER BAISA: Recommendation.

COUNCILMEMBER VICTORINO: Recommendation.

CHAIR CARROLL: Thank you. Members, the Chair will entertain a motion to recommend passage on first reading of the revised proposed bill entitled A Bill for an Ordinance to Change Zoning from R-3 Residential District to P-1 Public/Quasi-Public District for Property Situated at Kahului, Maui, Hawaii, for Kahului Baptist Church, Kahului Hongwanji Mission, and Kahului Seventh-Day Adventist Church; --

COUNCILMEMBER PONTANILLA: So moved.

CHAIR CARROLL: --and incorporating any nonsubstantive revisions; and the filing of County Communication 12-178.

COUNCILMEMBER PONTANILLA: So moved.

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VICE-CHAIR WHITE: Second, Mr. Chair.

CHAIR CARROLL: Been moved by Mr. Pontanilla, seconded by Mr. White. Further discussion? Seeing none, all in favor of the motion, signify by saying "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR CARROLL: Opposed? Motion is carried. Seven ayes, two excused, Mr. Hokama and our Council Chair, Mr. Mateo.

**VOTE: AYES: Chair Carroll, Vice-Chair White, Councilmembers
 Baisa, Cochran, Couch, Pontanilla and Victorino.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Hokama and Mateo.

MOTION CARRIED.

**ACTION: FIRST READING OF REVISED BILL AND FILING OF
 COMMUNICATION.**

CHAIR CARROLL: Thank you, Members. Moving right along going to our second application.

**LU-31 DISTRICT COMMUNITY PLAN AMENDMENT AND CHANGE IN ZONING
 FOR PROPOSED PULELEHUAKA RESIDENTIAL SUBDIVISION (PUKALANI)**
(C.C. No. 12-92)

CHAIR CARROLL: The Committee...LU-31. The Committee is in receipt of the following: County Communication 12-92, from the Planning Director, transmitting a proposed bill to grant a request from Munekiyo and Hiraga, Inc. on behalf of KG Maui Development, LLC, for one, a Community Plan Amendment from Park to Single-Family for approximately 4.058 acres, and from Single-Family to Park for approximately 3.784 acres; and two, a Change in Zoning from R-1 Residential District to R-3 Residential District for approximately 0.245 acres, from D-1 Duplex District to R-3 Residential District for approximately 1.737 acres, from PK-4 Park...Golf Course Park District to R-3 Residential District for approximately 4.021 acres; from R-1 Residential District to PK-4 Golf Course Park District for approximately 7.404 acres; and from R-2 District, Residential District to PK-4 Golf Course Park District for approximately 0.999 acre. These land use entitlements would allow for the development of a 13-lot single-

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family residential subdivision located along Aina Lani Drive, Pukalani, Maui, Hawaii. At the request of the Committee Chair, the Committee has also received correspondence dated August 29, 2012, from the Department of Corporation Counsel, transmitting a revised proposed bill to enact the described Community Plan Amendments and Changes in Zoning. These revised proposed bills are the ones the Committee will focus on today. PowerPoint presentation by Leilani Pulmano, Munekiyo and Hiraga, Inc. The Committee is going to now stand in recess for two minutes while we drop the screen for the presentation. Recess. . . .(gavel). . .

RECESS: 2:16 p.m.

RECONVENE: 2:18 p.m.

CHAIR CARROLL: . . .(gavel). . . Land Use Committee meeting of September 5, 2012 is now back in session. We can begin our presentation.

. . . BEGIN PRESENTATION . . .

MS. PULMANO: Thank you. Good afternoon, Chairman Carroll and Members of the Committee. My name is Leilani Pulmano with Munekiyo and Hiraga, and we're the planning consultants for the proposed Pulelehuakea residential subdivision. We're here today requesting for an approval of a Community Plan Amendment and Change in Zoning for the proposed project. The proposed project is for a residential subdivision and to downzone Residential lands to Park Golf Course. I'd just like to take a moment to introduce you to the project team, and they're here available to answer any questions. We have with us today from KG Maui Development, the applicant Elton Wong, and from Ronald M. Fukumoto Engineering, Ronald Fukumoto, and myself. To give you a regional context of the area and to orient you to the site, the proposed project is within Pukalani within the Pukalani Country Club Golf Course. And here's Haleakala Highway, it turns into Kula Highway. This is the Pukalani Town Center, and the project site is within this red block here. And again, it's within the Pukalani Golf Course, within holes five, six, and seven. And just a closer look at the site, just to orient you, this side is makai and this side is mauka. Liholani Street is this street here, and Aina Lani Street is here. There's a current stub-out of the road called Pulelehuakea Street and hence the name of the project, and this is where they will access the project site. The Pukalani Golf Course surrounds the project. This is the project site here for the residential area, and along this area here is areas that are zoned Residential lands that we're asking to change to Park Golf Course. And here is the existing Kulamalu Homeowners Association. So we're seeking the following Change in Zonings and Community Plan Amendments for the project. One is a Community Plan Amendment to Single Family for the residential area. Two, a Community Plan to Park Golf Course for the golf course area. Three, a Change in Zoning to R-3 Residential for the subdivision area, and four, a Change in Zoning to Park Golf Course for the golf course area. Initially, KG Maui looked at their existing land use designations for the site which allows for 20 duplex housing units. They determined that this type of housing is not compatible for the area of Pukalani given the surrounding single-family Kulamalu Subdivision. They felt that a more appropriate housing type would be single-family

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housing units. So the applicant is proposing to develop a residential subdivision on approximately six acres within Area A. The residential subdivision will provide for 13 single-family residential lots ranging from 15,000 to 37,000 square feet. The applicant held a community meeting earlier on with the surrounding neighbors to get their feedback, and the Kulamalu's Homeowners Association requested to establish land use consistency on 8.4 acres of land on the Pukalani Golf Course adjacent to their homes that is currently zoned Residential but is part of the existing golf course within Area B, so in this area here. So the proposed project is seeking a Community Plan Amendment and Change in Zoning to allow for the single-family residential units in Area A and Park Golf Course in Area B. And just to take you through a little bit more because it's a little complicated, the entire project is already within this Urban State land use district. And in terms of the existing community plan area for Area A, the portion...there is a portion that already has Single-Family here, and KG is requesting for a community plan designation of Single-Family for the entire lot in Area A. For Area B, the existing golf course, this area has Single-Family community planned designation, and KG Maui is requesting to downzone this area to community planned Golf Course in this area. In terms of the zoning for Area A, there is a portion of the site that's already zoned Duplex, and KG is requesting to rezone this area to R-3 Residential for the entire area. And for Area B, the existing golf course, the area has R-1 in this grey area and R-2 here, and KG is requesting to downzone this area to Park Golf Course for the entire area. This ultimately reduces the overall amount of land with Residential land use designations by about five acres. So in summary, as you saw previously, a portion of the site is already zoned for housing, and the entire project area currently allows for 35 total housing units, but the proposed project is for 13 single-family housing units, making the project less dense. It will also provide the current homeowners of Kulamalu Subdivision assurances that their lands adjoining their property will be designated to golf course use instead of future housing. And the project is located within the draft Maui Island Plan Urban Growth Boundary. And here's some site photos. The photo on the left is a view from mauka of the site looking towards makai, and you can see a portion of the trees that lines Area A. And the right photo is the current state of Area A as you're standing inside of the area. This concludes my presentation, and the project team is here to answer any of your questions that you may have. Thank you.

... END OF PRESENTATION ...

CHAIR CARROLL: Thank you. This meeting will now stand in recess for two minutes. Recess.
...(gavel)...

RECESS: 2:25 p.m.

RECONVENE: 2:27 p.m.

CHAIR CARROLL: ...(gavel)... The Land Use Committee meeting of September 5, 2012 is now back in session. Members, although representative of Housing was requested, none is available to attend the meeting. Per Housing Director, a residential workforce housing agreement will be

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entered into; however, how applicant will fulfill the requirements under Chapter 2.96, MCC, has not yet been discussed. I will now open the floor. The floor is open. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. As the area representative, I'm extremely happy to hear the Kulamalu Community Association come and say that, you know, there's been good discussion with the developer and that they are essentially in support of the project. But also, as the area representative, I have a question that I know all of my constituents are going to ask so I want to have it answered, is how is this going to deal with water?

CHAIR CARROLL: We have representative from the Water Department. If there's no objection, I will call her down.

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Pam. Can we make room for her over there? Please identify yourself at the microphone.

MS. POGUE: Thank you, Chair. My name is Pam Pogue and I'm the Division Chief for Water Resources and Planning for Department of Water Supply.

COUNCILMEMBER BAISA: Thank you very much.

CHAIR CARROLL: Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I refer to a letter in our binder from March 19th from the Water Department, and it makes a lot of comments about water supply and them not being on the water meter list and having to purchase source credits and all of this kind of stuff. So if we could please get a report on how all of these water concerns are being addressed, then that's my big thing. Thank you.

MS. POGUE: Absolutely. My understanding is that they did in fact, they are now on the water meter list. They made a request on May 24th and they are No. 1,427. It's kind of hard to say that with a straight face, but --

COUNCILMEMBER BAISA: Yeah.

MS. POGUE: --it is what it is. They've requested 15 meters, and with the 15 meters the average daily consumption requirement is going to be 9,750 gallons per day. They also...there was an amendment...they did mention in the letter and they also had mentioned the possibility of purchasing water credits from Dowling, and then they also mentioned the possibility of desal, desalinization. In terms of the water credits, I'm not quite sure, you might want to ask the applicant, but I know that the Dowling credits right now are being given out to folks on the water meter list so that is kind of low. I will say that they did meet, the applicants did meet with my boss, the Deputy Director and Alan Murata from Engineering and had a very good meeting.

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They were very, very accommodating. Didn't ask for anything other than, you know, they are on the water list, did what they were supposed to do, and if in time should the subdivision...they apply for the subdivision application, if there is a problem with getting water, there was mention of the possibility of the State putting in a well, and they might want to talk about that. But at this point they are fully well aware that they are No. 1,427 on the meter list and what they may or may not entail and what the consequence may be.

COUNCILMEMBER BAISA: And can you...give us a little bit more about what that water...that...what that might be. They're aware of the consequence, and what might that be? That they might not be able to build?

MS. POGUE: Well, and I would assume they're aware of the consequence and what was discussed that was told to me is that how much time that may take, the time may run out.

COUNCILMEMBER BAISA: Okay, Chair, we can ask the developer some of the details about the credits and things. If you want to do that now or if you want to do that later.

CHAIR CARROLL: Proceed.

COUNCILMEMBER BAISA: Do we have the person here?

CHAIR CARROLL: No objections? I'll call down...

COUNCIL MEMBERS: No objections.

CHAIR CARROLL: Please identify yourself at the microphone.

MS. PULMANO: Good afternoon. My name is Leilani Pulmano with Munekiyo and Hiraga. I'm speaking on the behalf of the applicant.

COUNCILMEMBER BAISA: Good afternoon, Ms. Pulmano. You heard the question, can you please help us?

MS. PULMANO: Early on, we did initially think about purchasing credits from Dowling, and that has not been the case now currently as the Water representative was talking about. We are on the water meter waiting list, priority list and we are 1,427. It's far back, quite frankly, but we think that this process takes a long time. As you all know, development process takes a while, and we just want to be ready when the Water Department does have these water meters ready to be issued. And we're very hopeful that they'll providing water meters within the next couple years.

COUNCILMEMBER BAISA: Have you pursued the idea of desal at all?

MS. PULMANO: We have. We had a really good discussion with the Water Department I would say about a year ago, and unfortunately Pukalani, the developer does have a well. It would have

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needed to be desal, a desal plant, but what they indicated to us was that the operations of the desal plant would be far more costly than the sources that they're looking at right now. So they asked us not to continue to pursue that, and it's at that time when we decided that our best option at this point was to be on the water meter list.

COUNCILMEMBER BAISA: Okay. I just wanted to make sure that that was, you know, put out there, because every time somebody sees a development going ahead Upcountry, people always say well how are they going to jump the meter list and they want to make sure that that's being adhered to.

MS. PULMANO: Right.

COUNCILMEMBER BAISA: So I just wanted to get it out here so everybody would know that. Thank you.

MS. PULMANO: Fourteen twenty-seven, that's our number.

COUNCILMEMBER BAISA: Unfortunately. Thank you very much. And thank you, Chair.

CHAIR CARROLL: While we have the applicant by the podium, are there any questions? Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Not for the applicant but maybe for Planning or Corporation Counsel.

CHAIR CARROLL: The applicant, thank you very much.

MS. PULMANO: Thank you.

COUNCILMEMBER COUCH: I have for the applicant.

CHAIR CARROLL: Mr. Pontanilla, would you mind if we finished questioning the applicant first?

COUNCILMEMBER PONTANILLA: Oh, yeah, go ahead.

CHAIR CARROLL: Mr. Couch.

COUNCILMEMBER COUCH: Thank you. I know we don't have anybody from Housing and Human Concerns here. How are you guys proposing to deal with the workforce housing law?

MS. PULMANO: Well, the...Chapter 2.96 allows us several options that we can provide workforce housing onsite or offsite, also working with a affordable housing provider, or paying the in lieu fee. So we have...we haven't decided on what option that we'll be pursuing. We have a long

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way to the subdivision process, and we understand that the housing agreement has to be completed prior to that process. So we'll be fully in compliance with Chapter 2.96.

COUNCILMEMBER COUCH: Thank you.

CHAIR CARROLL: Thank you. Thank you. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Okay. For Planning Department --

CHAIR CARROLL: Yeah.

COUNCILMEMBER PONTANILLA: --or Corporation Counsel. I know we've done it before, you know, approving subdivisions and having a condition that water need to be provided so that, you know, before, I guess, applying for building permits. In this case here, it would be almost the same thing? In other words, we approve the subdivision but they can't build until the water issue is satisfied?

MR. GIROUX: Yeah, it would work at subdivision that they would be required to show that they can provide the water, I believe, and that's part of the "Show Me the Water" Bill.

COUNCILMEMBER PONTANILLA: So the subdivision gotta be fully approved?

MR. GIROUX: It would go through I believe the...talk to Water, but my understanding...

COUNCILMEMBER PONTANILLA: And no, and the reason why I bring up this question...

MR. GIROUX: My understanding is that at the...they would try to go in for preliminary subdivision, and then on the preliminary checklist it would have that they have to show that they have a --

COUNCILMEMBER PONTANILLA: A water source.

MR. GIROUX: --reliable source of water.

COUNCILMEMBER PONTANILLA: Okay. And the reason why I ask this question, you know, is that I don't want the subdivision to be approved and the sale of the lot be done, and then leaving the owner of that lot with the responsibility of going, you know, getting the water meter. But understanding that they're one thousand four hundred twenty-whatever on the list, so I'm satisfied with that. But I just want to be assured that no lots is sold and then leaving the responsibility on the people that purchased these lots.

CHAIR CARROLL: Thank you. Mr. Victorino.

COUNCILMEMBER VICTORINO: You know just to make clarification. The "Show Me the Water" Bill is not applicable for Upcountry, the water meter list is the applicable law of the Upcountry

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area. All our changes that we've made, all the things we've worked on, if you've always noticed we put exempting Upcountry, because Upcountry the water meter list the governing body...is the governing rule, I should say, for Upcountry. So, you know, as far as "Show Me the Water", it's not applicable up there, because the water meter list is the applicable rule as far as Upcountry is concerned. So just so that, yeah, there's a differentiate. They can't get out of skipping, they can get far...they'll have to find their own water source or comply with the water meter list. That's the only two things, there's no skipping the process for the Upcountry area, and Ms. Baisa I think can confirm that as we've --

COUNCILMEMBER BAISA: Correct.

COUNCILMEMBER VICTORINO: --discussed this in many of our meetings. Thank you, Chair.

CHAIR CARROLL: Further discussion? If there's no further discussion, the Chair will read his recommendation.

COUNCIL MEMBERS: Recommendation.

COUNCILMEMBER PONTANILLA: Chairman?

CHAIR CARROLL: Members...

COUNCILMEMBER PONTANILLA: Chairman?

CHAIR CARROLL: Oh, I'm sorry. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Yeah, you can go ahead with the recommendation, but prior to first reading, if we can get from Housing and Human Services their recommendation on how they're going to proceed in regards to the affordable housing criteria. Okay. Thank you.

CHAIR CARROLL: Thank you. Members, the Chair will first entertain a motion to recommend passage on first reading of the revised proposed bill entitled A Bill for an Ordinance to Amend the Makawao-Pukalani-Kula Community Plan and Land Use Map from Park to Single-Family and from Single-Family to Park for Tax Key No. (2) 2-3-008:036 (POR.), Pukalani, Maui, Hawaii; and incorporating any nonsubstantive revisions.

VICE-CHAIR WHITE: So moved, Chair.

COUNCILMEMBER BAISA: Second.

CHAIR CARROLL: It's been moved by Mr. White, seconded by Ms. Baisa. Discussion? Hearing none, all in favor of the motion, signify by saying "aye".

COUNCIL MEMBERS VOICED AYE.

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CHAIR CARROLL: Opposed? Motion carried, seven ayes, two excused, Mr. Mateo and Mr. Hokama.

**VOTE: AYES: Chair Carroll, Vice-Chair White, Councilmembers
 Baisa, Cochran, Couch, Pontanilla and Victorino.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Hokama and Mateo.

MOTION CARRIED.

ACTION: FIRST READING OF REVISED BILL.

CHAIR CARROLL: Members, the Chair will next entertain a motion recommending passage on first reading of the revised proposed bill entitled A Bill for an Ordinance to Change Zoning from R-1 Residential District to R-3 Residential District, from D-1 Duplex District to R-3 Residential District, from PK-4 Golf Course Park District to R-3 Residential District, from R-1 Residential District to PK-4 Golf Course Park District, and from R-2 Residential District to PK-4 Golf Course Park District, Conditional Zoning, for Property Situated at Tax Map Key No. (2) 2-3-008:039 [*sic*] (POR.) Pukalani, Maui, Hawaii; incorporating any nonsubstantive revisions and filing of County Communication 12-92.

VICE-CHAIR WHITE: So moved, Mr. Chair.

COUNCILMEMBER BAISA: Second, Mr. Chair.

CHAIR CARROLL: Been moved by Mr. White, seconded by Ms. Baisa. Discussion? Seeing none, all in favor of the motion, please signify by saying "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR CARROLL: Opposed? Motion carried. Seven ayes, two excused, Mr. Hokama and Mr. Mateo.

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**VOTE: AYES: Chair Carroll, Vice-Chair White, Councilmembers
 Baisa, Cochran, Couch, Pontanilla and Victorino.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Hokama and Mateo.

MOTION CARRIED.

**ACTION: FIRST READING OF REVISED BILL AND FILING OF
 COMMUNICATION.**

CHAIR CARROLL: Members, that brings us to the end of our agenda today. Thank you very much for attending this meeting and all those that have joined us in the gallery and out there in television land. This Land Use Committee meeting of September 5, 2012 now stands adjourned. . . .(gavel) . . .

ADJOURN: 2:41 p.m.

APPROVED BY:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:120905:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 12th day of September, 2012, in Kula, Hawaii



Daniel Schoenbeck